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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/988,749	11/20/2001	Heinz-Dieter Adomeit	076326-0196	9045

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FOLEY AND LARDNER
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3000 K STREET NW
WASHINGTON, DC 20007

EXAMINER

SMITH, JULIE KNECHT

ART UNIT	PAPER NUMBER
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3682

DATE MAILED: 07/31/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/988,749

Applicant(s)

ADOMEIT, HEINZ-DIETER

Examiner

Julie K Smith

Art Unit

3682

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 May 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1 and 3-34 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1 and 3-34 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 20 November 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s) _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 3-8 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claims 3-8 depend on canceled claim 2. The claims are being treated in this Office Action as being dependent upon claim 1.

Claim Rejections - 35 USC § 103

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-12, 14-15, 22-32 and 34 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ervin in view of White et al. (4,616,522).

Ervin discloses an apparatus for steering a motor vehicle comprising a rotatable steering device, including a shaft and a steering wheel (16), having an axis of rotation, a transmission mechanism (38,40), having gear teeth and an endless member (58) for translating a rotational movement of the steering device into a movement of a steering element (18) positioned away

Art Unit: 3682

from the axis of rotation of the steering element, and a telescopic mount (30,32,42), having a support column (22) fastened to a crossmember of the dashboard for supporting the steering element, wherein the mount includes a portion extending in a direction parallel to the axis of rotation of the steering element, wherein the mount is configured to cushion the impact of the occupant against the steering element (see col. 1, lines 55-68). Ervin further discloses elastic means (see fig. 4) for resisting the telescopic shortening of the length of the mount, a transmission mechanism that can be disengaged (see figs. 3-4) from the steering device in the event of an impact of a vehicle occupant and a housing having a predefined breaking point (43). Ervin does not disclose a mount that tilts downward in the even of a collision. However, White et al. teaches a telescopic mount (see fig 2) having an extending portion configured to tilt downward, and a weakened section comprising a notch (see fig. 15) to facilitate bending, wherein the mount shortens in length to further facilitate bending.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mount of Ervin with the teachings of White et al. to allow the steering device to tilt downward so as to further reduce injury to the occupant, preventing an airbag from projecting upward towards a passengers head.

5. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ervin in view of White et al. as applied to claims 1, 4-12, 14-15, 22-32 and 34 above, and further in view of Mohr (4,411,167). Ervin discloses an elastic means for resisting telescopic shortening of a mount, but does not disclose that it is fluid. However, Mohr teaches a fluid resisting means (fig. 7, putty is described in col. 4) for a telescoping member (see fig. 9).

Art Unit: 3682

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the resisting means of Ervin with the teachings of Mohr to provide an elastic or fluid resisting means so that the impact can further be reduced by using a spring or fluid as a dampener.

6. Claims 3 and 16-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ervin in view of White et al. as applied to claims 1, 4-12, 14-15, 22-32 and 34 above, and further in view of Steffens, Jr. (5,507,521).

Regarding claim 3, although the reference combination set forth above does not disclose that the steering wheel tilting so that it extension a direction parallel to a longitudinal direction of the vehicle, Steffens, Jr. teaches a steering wheel device that, upon impact, is tilted downward in a direction parallel to the longitudinal direction of the vehicle.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the reference combination set forth above with the teachings of Steffens, Jr. such that the steering wheel is tilted downward, parallel to a longitudinal direction of the vehicle so as to reduce the impact of the collision imposed on the driver.

Regarding claims 16-19, Steffens, Jr. teaches a steering apparatus further comprising a fixed subassembly (26) having a non-steering function comprising an airbag module and a horn.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the mount of Ervin with the teachings of Steffens, Jr., as it is old and well known in the art to provide steering assemblies with airbags and horns for additional safety.

Art Unit: 3682

7. Claims 20-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ervin in view of White et al. as applied to claims 1, 4-12, 14-15, 22-32 and 34 above, and further in view of Seko (3,910,597). Although the reference combination set forth above does not disclose an airbag arranged asymmetrically in relation to the axis of rotation of the steering wheel, Seko teaches an airbag that is arranged asymmetrically about the axis of rotation.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the apparatus of the reference combination with the teachings of Seko to provide an airbag arranged asymmetrically about an axis of rotation so as to ensure that the airbag deploys properly, regardless of the tilt position of the steering wheel.

8. Claim 33 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ervin in view of White et al. as applied to claims 1, 4-12, 14-15, 22-32 and 34 above, and further in view of Cochard (4,938,094). Although Ervin is silent as to the assembly procedure of the steering assembly, Cochard teaches a pre-assembled steering transmission mechanism which can be connected to the steering element.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to design the assembly to be pre-assembled to reduce complexity and allow the assembly to be more easily installed.

Regarding claim 33, product-by-process claims are limited by and defined by the process; determination of patentability is based on the product itself. The patentability of a product does not depend on its method of production. If the product in the product-by-process claim is the same as or obvious from a product of the prior art, the claim is unpatentable even though the prior product was made by a different process. *In re Thorpe*, 777 F.2d 695, 698, 227 USPQ 964, 966 (Fed. Cir. 1985)

Art Unit: 3682

Response to Arguments

9. Applicant's arguments, see amendment, filed 5/23/03 have been fully considered and are persuasive. Therefore, the rejection has been withdrawn. However, upon further consideration, a new ground(s) of rejection is made.

Regarding the argument that the element (58) of Ervin is not an endless member, it is the position of the examiner that even though the pinion is limited in length axially, in the radial direction the pinion is an endless circular member, just as a belt is an endless member in the radial direction and not in the axial direction.

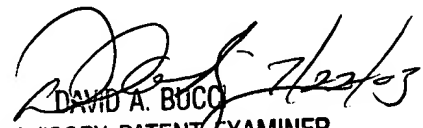
Conclusion

10. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Julie K Smith whose telephone number is 703-305-3948. The examiner can normally be reached on Monday-Friday, 8-5:30, (Every other Friday off).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David A Bucci can be reached on 703-308-3668. The fax phone numbers for the organization where this application or proceeding is assigned are 703-305-7687 for regular communications and 703-305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-1113.

JKS
jks
July 21, 2003


DAVID A. BUCCI
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600